

KATE BROWN
SECRETARY OF STATE



STEPHEN N. TROUT
DIRECTOR

255 CAPITOL STREET NE, SUITE 501
SALEM, OREGON 97310-0722

ELECTIONS — (503) 986-1518

For Immediate Release:
March 4, 2010

Contact: Summer Davis
Elections Division
(503) 986-1518

The Office of the Secretary of State received a certified ballot title from the Attorney General on March 3, 2010, for initiative petition #77, proposing a statutory amendment, for the General Election of November 2, 2010.

In addition, Secretary of State Kate Brown determined that the proposed initiative petition was in compliance with the procedural requirements established in the Oregon Constitution for initiative petitions.

The certified ballot title is as follows:

Authorizes Multnomah County casino; casino to contribute monthly revenue percentage to state for specified purposes

Result of "Yes" Vote: "Yes" vote authorizes a single privately-owned casino in Multnomah County; requires casino to give percentage of monthly revenue to State Lottery for specified purposes.

Result of "No" Vote: "No" vote maintains the current state of the law, which does not authorize any privately-owned casino or casinos anywhere in the State of Oregon.

Summary: Currently, Oregon Constitution prohibits establishing casinos within state. Under measure, State Lottery shall issue renewable 15-year lease permitting owner of former Multnomah Kennel Club in Multnomah County to operate gaming devices, table games, keno, other games of chance at that site. Measure would become operative only if constitution is amended to permit casino or casinos within state. Casino operator shall pay 25% of adjusted gross revenues each month to State Lottery. Lottery shall deposit money into a Job Growth, Education and Communities Fund (separate from general fund), annually shall apportion half of fund for classroom instruction expenditures, 30% to counties. Casino operator initially shall pay \$1 million, subsequently shall pay \$2 million annually, to Lottery to administer measure. Other provisions.

Chief Petitioner(s): Matthew K. Rossman, 5933 Suncreek Dr, Lake Oswego, OR 97035 and Bruce Studer, 5863 Suncreek Dr, Lake Oswego, OR 97035.

Copies of the text of this initiative are available at Suite 501, 255 Capital St NE, for \$4.75. Written requests for copies with your remittance of \$4.75 prepaid, should be addressed to: Elections Division, 255 Capitol St NE, Ste 501, Salem, OR 97310.

There now follows an appeal period of 10 business days. Any elector dissatisfied with the ballot title certified by the Attorney General, who also submitted in a timely manner written comments which addressed the specific legal standards a ballot title must meet, may petition the Supreme Court for a different title. The appeal period ends at 5:00 p.m. on March 17, 2010. The appeal procedures are outlined in ORS 250.085.

The required number of signatures for placement on the 2010 general election ballot is 82,769. These signatures shall be filed in this office not later than July 2, 2010.

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DEPARTMENT OF JUSTICE
APPELLATE DIVISION

March 3, 2010

Stephen N. Trout
Director, Elections Division
Office of the Secretary of State
141 State Capitol
Salem, OR 97310

RECEIVED
2010 MAR -3 PM 2:41
JANE BROWN
SECRETARY OF THE STATE

Re: Proposed Initiative Petition — Authorizes Multnomah County Casino; Casino To
Contribute Monthly Revenue Percentage To State For Specified Purposes
DOJ File #BT-77-09; Elections Division #77

Dear Mr. Trout:

We have reviewed the comments submitted in response to the draft ballot title for the above-referenced prospective initiative petition. We provide the enclosed certified ballot title. We have changed the summary.

This letter summarizes the comments we received, our responses to those comments, and the reasons we declined to make some of the changes proposed by the commenters. ORAP 11.30(7) requires this letter to be included in the record if the Oregon Supreme Court is asked to review the ballot title.

A. The “yes” result statement

Eli Stutsman submitted comments on behalf of chief petitioners Bruce Studer and Matt Rossman. In part, the chief petitioners request a change to the draft ballot title’s “yes” result statement, which reads:

“Yes” vote authorizes a single privately-owned casino in Multnomah County; requires casino to give percentage of monthly revenue to State Lottery for specified purposes.

The chief petitioners propose that we substitute the phrase “commercial casino” for the phrase “privately-owned casino.” We have declined to adopt the proposed change. Chief petitioners do not dispute that the casino authorized by the proposed measure would be a “privately-owned” casino, and they do not suggest that the phrase

“privately-owned” is inaccurate. Although the chief petitioners assert that the word “*private*” is not “as accurate as the word ‘commercial’ because the word ‘private’ connotes private gaming rooms or clubs,” the draft ballot title does not use the word “private.” It instead uses the phrase “privately-owned” and, again, petitioners do not challenge the accuracy of that particular phrase. We also note that nothing in the proposed measure’s text appears to describe the casino at issue as “commercial.” Accordingly, we have not modified the “yes” result statement.

B. The “no” result statement

The chief petitioners also propose a change to the draft ballot title’s “no” result statement. The “no” result statement reads:

“No” vote maintains the current state of the law, which does not authorize any privately-owned casino or casinos anywhere in the State of Oregon.

The chief petitioners propose deleting the words “privately-owned casino or” from that statement. They assert that those words “add nothing to the * * * statement and therefore detract from the clarity of the sentence.” We have declined to make the suggested change. Petitioners do not assert that the words in question are inaccurate or that they likely will mislead voters about either current law or the proposed measure. Moreover, we do not believe that the proposed change will make the “no” statement’s meaning any clearer.

B. The summary

The chief petitioners also propose changes to the draft ballot title’s summary. The draft summary reads:

Currently, Oregon Constitution prohibits establishing casinos within state. Under measure, State Lottery shall issue renewable 15-year lease permitting owner of former Multnomah Kennel Club in Multnomah County to operate gaming devices, table games, keno, other games of chance at that site. Measure would become operative only if constitution is amended to permit casinos within state. Operator of casino shall pay 25% of adjusted gross revenues each month to State Lottery. Lottery shall deposit money into a Job Growth, Education and Communities Fund (separate from general fund), annually shall apportion 50% of fund for classroom instruction expenditures, 30% to counties. Casino operator initially shall pay \$1 million, subsequently shall pay \$2 million annually, to Lottery to administer measure. Other provisions.

The chief petitioners suggest that the summary's third sentence—"Measure would become operative only if constitution is amended to permit casinos within state"—should be altered so it reads, "Measure would become operative only if constitution is amended to authorize a single commercial casino within state." In response, we have changed the reference to "casinos" to "casino or casinos," to more accurately reflect the type of constitutional change that would be required in order for the proposed measure (which would authorize a single casino) to have a practical effect. Further, use of the phrase "casino or casinos" parallels the use of that same phrase in the "no" result statement. We have modified the summary accordingly. To make room for that modification, we have shortened the phrase "Operator of casino" (in the summary's fourth sentence) to "Casino operator," and we have changed "50%" (in the summary's fifth sentence) to "half."

We have declined, however, to modify the summary in any other respect. The proposed measure (which would authorize a single casino) would become operative so long as the state constitution is amended to permit a casino or casinos to operate in the state. *See* Or Const, Art XV, § 4(12) ("[t]he Legislative Assembly has no power to authorize, and shall prohibit, casinos from operation in the State of Oregon"). The required constitutional change would not, in our view, need to use the word "commercial," or need to be limited to authorization for a "single" casino. We thus have declined to insert those words into the sentence in question.

The chief petitioners also propose that the summary's fifth sentence—to more fully match proposed measure's text—should refer to "*the Oregon Job Growth, Education and Communities Fund*" instead of to "*a Job Growth, Education and Communities Fund*." Replacing the word "a" with the word "the," however, might mislead voters into believing that the fund in question is a fund that *already* exists under current law; in fact, the fund in question is a fund that would be created only if the proposed measure becomes law, and we believe that use of the word "a" is more likely to convey that fact to voters. *See* Proposed Measure, § 2 (creating Oregon Job Growth, Education and Communities Fund). In addition, we believe that, even without insertion of the word "Oregon," voters correctly will conclude that the described fund is a State of Oregon fund. Moreover, addition of the word "Oregon" would result in a 126-word summary, and would require deletion of a word elsewhere in the summary. Consequently, we have declined to make the suggested change.

The certified summary thus reads:

Currently, Oregon Constitution prohibits establishing casinos within state. Under measure, State Lottery shall issue renewable 15-year lease permitting owner of former Multnomah Kennel Club in Multnomah County to operate gaming devices, table games, keno, other games of chance at that site. Measure would become operative only if constitution is amended to permit casino or casinos within state. Casino operator shall pay

25% of adjusted gross revenues each month to State Lottery. Lottery shall deposit money into a Job Growth, Education and Communities Fund (separate from general fund), annually shall apportion half of fund for classroom instruction expenditures, 30% to counties. Casino operator initially shall pay \$1 million, subsequently shall pay \$2 million annually, to Lottery to administer measure. Other provisions.

C. Conclusion

We have modified the summary in response to the comments we received, but we have not modified any other portion of the ballot title. We certify the attached ballot title pursuant to ORS 250.067(2).

Sincerely,

Rolf C. Moan
Supreme Court Coordinator

RCM:kak/1930400

Enclosure

Lynn Rosik, General Counsel Division

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Lake Oswego, Oregon 97035

Bruce Studer
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BALLOT TITLE

Authorizes Multnomah County casino; casino to contribute monthly revenue percentage to state for specified purposes

Result of “Yes” Vote: “Yes” vote authorizes a single privately-owned casino in Multnomah County; requires casino to give percentage of monthly revenue to State Lottery for specified purposes.

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Summary: Currently, Oregon Constitution prohibits establishing casinos within state. Under measure, State Lottery shall issue renewable 15-year lease permitting owner of former Multnomah Kennel Club in Multnomah County to operate gaming devices, table games, keno, other games of chance at that site. Measure would become operative only if constitution is amended to permit casino or casinos within state. Casino operator shall pay 25% of adjusted gross revenues each month to State Lottery. Lottery shall deposit money into a Job Growth, Education and Communities Fund (separate from general fund), annually shall apportion half of fund for classroom instruction expenditures, 30% to counties. Casino operator initially shall pay \$1 million, subsequently shall pay \$2 million annually, to Lottery to administer measure. Other provisions.